

Critical phases and statutes applicable to:

Attorney General

17 Total Citations

A victim of crime shall be treated by agents of the State with dignity, respect and sensitivity during all phases of the criminal justice process

Constitution of Maryland, Declaration of Rights, Article 47(a)

Definitions

1 Specific Statutory Provision

Sexual Assault/Prohibited Exposure

- *Definition of victim as it relates to HIV exposure/testing*

Criminal Procedure Article, § 11-107(f) & (g)

- (f) (1) "Victim" means the victim of a prohibited exposure.
 - (2) "Victim" includes:
 - (i) a law enforcement officer who is exposed to HIV while acting in the performance of duty; and
 - (ii) a paid or volunteer firefighter, an emergency medical technician, or rescue squad member who is exposed to HIV while acting in the performance of duty.
 - (iii) a forensic scientist, working under the direction of a law enforcement agency, who is exposed to HIV while acting in the performance of duty
 - (g) "Victim's representative" means:
 - (1) the parent of a victim who is a minor;
 - (2) the legal guardian of a victim; or
 - (3) the person authorized to give consent for the victim under § 5-605 of the Health-General Article.
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The statutes below generally apply to all critical phases and should be considered throughout the entire Criminal Justice process.

4 Specific Statutory Provisions

Fair Treatment

- *Guidelines - Definition of victim as it relates to fair treatment*
Criminal Procedure Article, § 11-1001(e)
(e) "Victim" means a person who suffers direct or threatened physical, emotional, or financial harm as a result of a crime.

Notification - Sexual Assault/Prohibited Exposure

- *Responsibility for notifying victim of sexual assault crisis programs*
Criminal Procedure Article, § 11-113(c)
(c) The following shall notify a victim of prohibited exposure or the victim's representative of the provisions of Part II of this subtitle:
 - (1) a sexual assault crisis program established under § 11-923 of this title when a victim or victim's representative contacts the program;
 - (2) an intake officer who receives a complaint for the alleged prohibited exposure under § 3-8A-10 of the Courts Article; or
 - (3) on the filing of a charging document or delinquency petition for the alleged prohibited exposure:
 - (i) the Department of State Police;
 - (ii) the Police Department of Baltimore City;
 - (iii) the police unit of a county;
 - (iv) the police unit of a municipal corporation;
 - (v) the office of the sheriff of a county;
 - (vi) the office of the State's Attorney of a county;
 - (vii) the office of the Attorney General;
 - (viii) the office of the State Prosecutor;
 - (ix) the Department of Juvenile Services; or
 - (x) the police unit of a bicounty unit or the University of Maryland.

Miscellaneous

- *Receive help, care and support provided by the State*
Criminal Procedure Article, § 11-802
(a) The General Assembly finds:
 - (1) that many innocent persons suffer personal physical or psychological injury or die because of crimes or delinquent acts or in their efforts to prevent them or apprehend persons committing or attempting to commit them;
 - (2) that these persons or their dependents may as a result suffer disability, incur financial hardships, or become reliant on public assistance; and
 - (3) that there is a need for government financial assistance for these victims.
(b) The policy of the State is that help, care, and support be provided by the State, as a matter of moral responsibility, for these victims.

The statutes below generally apply to all critical phases and should be considered throughout the entire Criminal Justice process.

Miscellaneous

- *Applicability of guidelines*

Courts and Judicial Proceedings Article, § 3-8A-34

The guidelines provided under § 11-1003 of the Criminal Procedure Article apply to victims and witnesses of delinquent acts.

In order to preserve and protect a victim's right to justice, each victim of a crime shall have the rights outlined below during critical stages of the criminal justice process

Post-conviction/Post-disposition

12 Specific Statutory Provisions

Monetary Damages -- Notoriety for Profit

- *Judicial Review of Attorney General's decision*

Criminal Procedure Article, § 11-630

A person aggrieved by a final determination and order of the Attorney General under Part II of this subtitle may seek judicial review.

Monetary Damages -- Restitution

- *Notify victim of notoriety of crimes contract*

Criminal Procedure Article, § 11-623(a)

(a) On receipt of a submission under § 11-622 of Part II of this subtitle, the Attorney General shall mail notice of the receipt to each victim or victim's representative at the last known address of the victim or victim's representative.

- *Determination of notoriety of crimes contract*

Criminal Procedure Article, § 11-623(b)

(b) The Attorney General shall decide whether a contract is a notoriety of crimes contract:

- (1) after 30 days but before 180 days following receipt of the submission under § 11-622 of Part II of this subtitle; or
- (2) after 180 days, for cause.

- *Notify victim of decision regarding notoriety of crime contract*

Criminal Procedure Article, § 11-623(d)

(d) The Attorney General:

- (1) shall notify the defendant or defendant's assignee and the victim or victim's representative of the decision under this section; and
- (2) may not disburse money collected under § 11-622 of Part II of this subtitle until 60 days after the defendant or defendant's assignee and the victim or victim's representative have been notified of the decision.

Post-conviction/Post-disposition**Monetary Damages -- Restitution**

- *Disbursement of monies received in notoriety of crimes contract*

Criminal Procedure Article, § 11-624

- (a) The Attorney General shall deposit money received under this subtitle in an interest bearing escrow account.
- (b) Except as provided in § 11-625 of Part II of this subtitle and subsection (e) of this section, the Attorney General shall hold money for the benefit of and payable to the victim or victim's representative, as provided in subsection (c) of this section.
- (c)
 - (1) Subject to the priority of claims stated in § 11-628 of Part II of this subtitle, the Attorney General shall pay to the victim or victim's representative money from the escrow account to the extent of the money judgment or the amount of restitution if, within 5 years after the escrow account is established, the victim or victim's representative:
 - (i) brings or has pending a civil action against the defendant in a court of competent jurisdiction;
 - (ii) has recovered a money judgment for damages against the defendant; or
 - (iii) has been awarded restitution.
 - (2) Any money that then remains in the escrow account shall be paid as this section provides.
 - (3) Money may not be paid under this subsection until the defendant:
 - (i) has been found guilty;
 - (ii) has pleaded nolo contendere;
 - (iii) has been placed on probation before judgment; or
 - (iv) has been found not criminally responsible for criminal conduct under § 3-109 of this article.
- (d)
 - (1) At least once every 6 months for 5 years after the date the Attorney General receives money or other consideration under this subtitle, the Attorney General shall publish a legal notice in a newspaper of general circulation in the county where the crime was committed and in counties contiguous to that county.
 - (2) The notice shall advise the victim or victim's representative that escrow money is available to satisfy money judgments under this subtitle.
 - (3) The Attorney General may provide for any further notice that the Attorney General considers necessary.
- (e) Except as provided in subsection (f) of this section, the Attorney General shall pay over to the defendant all of the money from the escrow account if:
 - (1) the charges against the defendant are dismissed;
 - (2) a nolle prosequi is entered;
 - (3) the defendant is acquitted;
 - (4) the defendant is found to be incompetent to stand trial under § 3-106 of this article and at least 5 years have passed since that finding without a further disposition of the charge; or
 - (5) the charges against the defendant are placed on the stet docket, and at least 3 years have passed.
- (f) Notwithstanding § 11-628 of Part II of this subtitle, if a defendant was convicted before July 1, 1987, the Attorney General shall pay over to the defendant:
 - (1) all money in the escrow account if:
 - (i) at least 5 years have passed since the escrow account was established; and
 - (ii) no action by the victim or victim's representative is pending against the defendant; or
 - (2) all money remaining in the escrow account after payment of the claims described in § 11-628 of Part II of this subtitle.

Post-conviction/Post-disposition**Monetary Damages -- Restitution**

- *Payment to defendant of escrowed funds*

Criminal Procedure Article, § 11-625

- (a) The Attorney General shall pay the defendant from the escrow account the money that a court of competent jurisdiction in an order finds will be used to hire legal counsel at any stage of the criminal case, including an appeal.
- (b) After notice to each victim or victim's representative, the Attorney General shall pay money from the escrow account to a representative of a defendant for the necessary expenses of production of the money paid into the escrow account if the Attorney General finds that the payments are necessary and are not contrary to public policy.
- (c) The Attorney General may pay from the escrow account the costs of legal notices required under § 11-624 of Part II of this subtitle.
- (d) The total of all payments made from the escrow account under this section may not exceed 25% of the total payments that are:
 - (1) made into the escrow account; and
 - (2) available to satisfy judgments obtained by the victim or victim's representative.

- *Actions by defendant*

Criminal Procedure Article, § 11-627

Any action that a defendant takes to defeat the purpose of Part II of this subtitle, including an execution of a power of attorney, creation of a corporate entity, or designation of the defendant's interest, is void as against public policy.

- *Priority of claims paid*

Criminal Procedure Article, § 11-628

- (a) Notwithstanding any other law, a claim on money in the escrow account has the following priorities in this order:
 - (1) payments ordered by the Attorney General or a court under § 11-625 of Part II of this subtitle;
 - (2) subrogation claims of the State under § 11-817 of this title;
 - (3) a court order of restitution under § 11-603 of this subtitle;
 - (4) a civil judgment of a victim or victim's representative; and
 - (5) a civil judgment of a person, other than a victim or victim's representative, arising out of the crime.
- (b) The Attorney General may bring an action of interpleader or an action for declaratory judgment when the Attorney General is unable to determine the priority of claims and the proper disposition of the escrow account.
- (c) After payment of the claims described in subsection (a) of this section, the Attorney General shall deposit the money remaining in the escrow account in the State Victims of Crime Fund that is established under § 11-916 of this title.

- *Exclusive jurisdiction and control; Distribution of money - notoriety of claims contacts*

Criminal Procedure Article, § 11-629

- (a) Notwithstanding any other law, the Attorney General has exclusive jurisdiction and control as escrow agent over money or other consideration subject to Part II of this subtitle.
- (b) Money in an escrow account may be distributed only by a determination and order of the Attorney General under Part II of this subtitle.
- (c) The Attorney General may adopt regulations to carry out Part II of this subtitle.

Post-conviction/Post-disposition**Monetary Damages -- Restitution**

- *Prohibited Acts; Penalties - Notoriety of crimes contract*

Criminal Procedure Article, § 11-631

- (a) A person may not willfully fail:

- (1) to submit to the Attorney General a copy of all written terms and a summary of all oral terms of a notoriety of crimes contract described in § 11-622 of Part II of this subtitle; or

- (2) to pay over to the Attorney General any money or other consideration as this subtitle requires.

- (b) (1) A person who violates this section is subject to a civil penalty of not less than \$10,000 for each offense and not exceeding 3 times the notoriety of crimes contract amount.

- (2) If two or more persons are subject to the penalties provided in this section, those persons shall be jointly and severally liable for the payment of the penalty imposed.

- (3) After notice and opportunity to be heard is provided, the Attorney General by order may assess the penalties described in this subsection.

- (4) A penalty assessed under this subsection that is not paid within 30 days after the date of the order shall bear interest at the rate of 1% per month, compounded monthly.

- (5) (i) An action to recover a civil penalty assessed under this subsection may be brought by the Attorney General in a court of competent jurisdiction within 6 years after the cause of action accrues.

- (ii) Any money recovered under subparagraph (i) of this paragraph shall be paid into the State Victims of Crime Fund that is established under § 11-916 of this title.

- *Proceeding brought by Attorney General - Violations or threats of violation - Notoriety of crimes contracts*

Criminal Procedure Article, § 11-632

- (a) The Attorney General may bring a proceeding in a court of competent jurisdiction against a person who violates or threatens to violate Part II of this subtitle to restrain the person from continuing the violation or carrying out the threat.

- (b) In a proceeding under this section, a court has jurisdiction to grant to the Attorney General, without bond or other undertaking, a prohibitory or mandatory injunction as the facts may warrant, including temporary restraining orders and preliminary injunctions to prevent payments under a notoriety of crimes contract that violates Part II of this subtitle.

Notification

- *Responsibility to notify victim of appeal court proceedings/decisions*

Criminal Procedure Article, § 11-503(c)(2)

- (c) (2) After the initial notification to the victim or victim's representative or receipt of a notification request form, as defined in § 11-104 of this title, the office of the Attorney General shall:

- (i) notify the victim or victim's representative of each subsequent date pertinent to the appeal, including dates of hearings, postponements, and decisions of the appellate courts; and

- (ii) send an information copy of the notification to the State's Attorney's office.